

Matter of: Charles E. Raiford, Jr.--Waiver Request
File: B-254196
Date: December 23, 1993

DIGEST

A former Navy member received a Selective Reenlistment Bonus (SRB), but was discharged before the end of his term of enlistment. The unearned portion of his SRB may not be considered for waiver because the SRB payment was proper when made.

DECISION

This is in response to an appeal of a Claims Group settlement which denied the waiver request of Mr. Charles E. Raiford, Jr., former member of the United States Navy. For the reasons presented below, his request is denied, and the Claims Group's settlement is affirmed.

Mr. Raiford was discharged from the Navy on February 28, 1986, approximately 5 months before the end of the term of service for which he had received a Selective Reenlistment Bonus (SRB). Therefore, the amount of the SRB which he had received for those 5 months was subject to recoupment. The net amount to be recouped was \$1,366.49. When Mr. Raiford was discharged, he received a separation payment of \$661.71, which should have been used to reduce his debt. Since that payment was erroneous and therefore subject to waiver, the Claims Group granted waiver of that amount but denied waiver of the remaining \$704.78. Mr. Raiford has appealed their denial of waiver of the latter amount.

Under 10 U.S.C. § 2774, the Comptroller General may waive a claim of the United States arising from an erroneous payment of pay and allowances if collection would be against equity and good conscience and not in the best interest of the United States. A debt cannot be considered for waiver unless the payment was erroneous when made, and we have held that a debt arising from the unearned portion of an SRB does not arise from an erroneous payment, since the payment was proper when made. Linda S. Bailey, B-234426, Feb. 23, 1990.

In the present situation, the SRB payment Mr. Raiford received was proper when made. Therefore, we cannot consider it for waiver.

Mr. Raiford argues that he should not be required to repay the unearned portion of his SRB because he was willing to serve the remaining 5 months of his enlistment and because repayment would be a hardship for him. Recoupment of the SRB is covered by part 1, chapter 9, section D, of the Department of Defense Military Pay and Allowances Entitlements Manual (DODPM), which requires recoupment in situations like Mr. Raiford's. See DODPM, paragraphs 10931a and 10933n. Moreover, hardship is not a factor in the consideration of waiver requests. Susan J. Carroll, B-252672, Sept. 20, 1993.

The government's claim of \$704.78 against Mr. Raiford cannot be considered for waiver. His waiver request is denied, and the Claims Group's settlement is affirmed.

James F. Hinchman
General Counsel